

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DON A. HYDE,	)	4:07CV3091
	)	
Plaintiff,	)	
	)	
vs.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
UNION PACIFIC RAILROAD	)	
COMPANY,	)	
	)	
Defendant.	)	

Pending before the court are a motion for summary judgment (filing 55) and motion in limine (filing 75) filed by defendant Union Pacific Railroad Company (“UP”) and Plaintiff’s motion for leave to supplement the record on summary judgment (filing 78).

The parties have submitted extremely well-written briefs in support of, and in opposition to, the motion for summary judgment. While the briefs submitted on behalf of the UP could stand as a model for federal practitioners, that great legal advocacy is not enough to convince me that the motion for summary judgment should be granted. The *facts* here are not good for the UP. Simply put, even a great lawyer has trouble turning a pig’s ear into a silk purse.

Regarding the motion in limine, given that Dr. Baxter has been fully deposed, I doubt seriously that the motion should be granted, but I shall hold the motion in abeyance and give the parties an opportunity to argue the motion at the in-chambers meeting immediately preceding trial. Accordingly,

IT IS ORDERED:

1. Defendant's motion for summary judgment (filing 55) is denied;
2. Defendant's motion in limine (filing 75) shall be held in abeyance and not considered until the first day of trial during the pretrial conference which will be held in chambers immediately prior to trial;
3. Plaintiff's motion to supplement the record on summary judgment (filing 78) is denied as moot.

January 18, 2008.

BY THE COURT:  
s/ *Richard G. Kopf*  
United States District Judge